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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,510	01/15/2004	Shigeru Miyamoto	723-1460	6319
27562	7590	01/30/2007	EXAMINER	
NIXON & VANDERHYE, P.C. 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			NGUYEN, BINH AN DUC	
			ART UNIT	PAPER NUMBER
			3714	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/757,510	MIYAMOTO ET AL.
	Examiner	Art Unit
	Binh-An D. Nguyen	3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 September 2005.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,6,8,10,11,17,19 and 21 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,6,8,10,11,17,19 and 21 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 17 June 2004 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. 09/443,869.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/15/06</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

The Amendment filed September 27, 2005 is hereby considered. According to the Amendment, claims 1, 6, 8, 10, 11, 17, 19, and 21 have been amended; and claims 2-5, 7, 9, 12-16, 18, 20, and 22-54 have been canceled. Currently, claims 1, 6, 8, 10, 11, 17, 19, and 21 are pending in the application. Acknowledgment has been made.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 6, 8, 10, 11, 17, 19, and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Gever et al. (6,329,994).

Referring to claims 1, 6, 8, 10, 11, 17, 19, and 21 Gever et al. teaches a computer animation system and method for generating and supplying to a display an image signal for displaying a player object (characters 64, 48) existing in the vicinity of a land object (e.g., floor or furniture objects 162, 164 (Figs. 8-11A)) by processing image data for the player object and the land object according to a program, comprising: a player object image data generator that generates player object image data to display a

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player object (characters 64, 48); a land object image data generator that generates land object image data to display a land object (sub-objects, static or moving icons, e.g., furniture objects 162, 164) (5:8-25); wherein the land object image data includes a program control code; a program control code detector that detects a program control code included in the land object image data for displaying the land object in the vicinity of the player (the control code imbedded in the sub-objects, invisible to a user), and that detects when a predetermined relationship exist between the position of the player object and the land object (9:32-10:67); virtual cameras for viewing different angles of a three dimensional game space (24:5-54); generating sound; outputting animation data to automatically cause the player object to perform an action in according with the action code (player walking 14:64-15:25); "jump" action (15:37-61); detecting moving speed of a player; generating images in three dimensional space with player and land object image polygon data (15:64-18:39).

Note that, the limitations of climb action corresponding to wall (land object) (claims 6 and 17); jump action corresponding to hole or hollow and land object is a hole (land object) (1 and 11) are inherent from Gever et al.'s teaching of sub-objects (5:8-6:60).

Further, note that, regarding the amended features of: a land object existing at the foot of the player object; and an object exists at a location adjacent said land object, and said image changing circuitry causes the player object to interact with said object (claims 1, 10, 11, 17, 19, and 21), these features are anticipated by Gever et al.'s disclosure of land object such as floor or furniture (sub-objects), which can be static or

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dynamic (5:15-21; and Figs. 8-11A); motion scripts and trigger scripts (program codes)(6:1-13) for smart object's interactions.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 6, 8, 10, 11, 17, 19, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naka et al. (5,963,218) in view of Sasaki (5,577,960).

Naka et al. teaches a video game apparatus and method generating and supplying to a display an image signal for displaying a player object existing in the vicinity of a land object, existing at the foot of the player object, by processing image data for the player object and the land object according to a program, comprising: a player object image data generator that generates player object image data to display a player object; a land object image data generator that generates land object image data to display a land object (Figs. 37A-37E); wherein the land object image data includes a program control code; a program control code detector that detects a program control code included in the land object image data for displaying the land object in the vicinity of the player (the control code imbedded in the teleport which exchange status information for first and second players, 22:28-63 and Figures 41-43A), and that detects

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when a predetermined relationship exist between the position of the player object and the land object (further, the program control code is also imbedded in the moving platform over the trench (an object adjacent to the land object) and the player object interacts with the platform to cross the trench, Figures 37A-37E and column 19:1-50); outputting animation data to automatically cause the player object to perform an action in according with the action code (pressing jumping command); land object is a hole (trench); “jump” action; detecting moving speed of a player (21:8-15). Note that, the program code embedded in the teleport or the platform (Figures 37A, 37B, and 41) is not visible to the video game player.

Naka et al. does not explicitly teach generating images in three dimensional space with player and land object image polygon data (claims 1, 6, 8, 10, 11, 17, 19, and 21 42). Sasaki, however, teaches a video game apparatus and method generating and supplying to a display an image signal for displaying a player object existing in the vicinity of a land object in a three dimensional space with player and land object image polygon data (5:61-9:24). See also, Figs. 1-12 and columns 2-11.

Regarding the limitations of climb action corresponding to wall (land object) (claims 6 and 17); jump action corresponding to hole or hollow (land object) (claims 1 and 11); virtual cameras for viewing different angles of a three dimensional game space (8 and 19); and generating sound (10, 11, 17, and 21), these limitations are notoriously well known in the video game industry.

Thus, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the technique of embedding control code in land object

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images of Naka et al. with system and method for generating images in three dimensional space with player and land object image polygon data, as taught by Sasaki, to come up with a more interesting 3-D video game apparatus.

### ***Response to Arguments***

Applicant's arguments filed September 27, 2005 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the control codes be embedded in a land object that is adjacent to the object to which the action indicated by the control code relates)(Applicant's remarks, page 12, lines 17-21) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As indicated above, Gever et al. discloses land object such as floor or furniture (sub-objects), which can be static or dynamic (5:15-21; and Figs. 8-11A); motion scripts and trigger scripts (program codes)(6:1-13) for smart object's interactions. Further, the amended features of the program control code not visible to a user of said video game apparatus (claims 1, 11, 12, 22, 32, and 42) is inherent from Gever et al.'s animated objects.

Further, Naka et al. in view of Sasaki, do teach all limitations claimed by the applicants including the amended features of a land object, existing at the foot of the

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player object; a program control code is imbedded in the moving platform over the trench (an object adjacent to the land object) and the player object interacts with the platform to cross the trench, Figures 37A-37E and column 19:1-50).

### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh-An D. Nguyen whose telephone number is 571-272-4440. The examiner can normally be reached on Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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